UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1991/NGO/18
6 August 1991

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-third session
Agenda item 10 (a)

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

QUESTION OF THE HUMAN RIGHTS OF PERSONS SUBJECTED TO ANY FORM OF DETENTION AND IMPRISONMENT

Written communication submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (Category II)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[30 July 1991]

ADMINISTRATION OF JUSTICE IN HONDURAS

1. The International Federation of Human Rights (IFHR) is concerned about the recent outbreak of political violence in Honduras. Although the Government has just signed an amnesty for 13 political prisoners, the Committee for the Defence of Human Rights in Honduras (CODEH) has, counted, five political assassinations, 96 cases of torture and 289 arbitrary or unlawful arrests in the past year. For the period from January to April 1991, it has counted 40 new cases of torture. These violations are made even worse by the fact that the remedy of habeas corpus recognized by article 182 of the Constitution of Honduras is not respected either by the military or police authorities or by the judiciary.

2. CODEH has heard testimony, which IFHR has published in a report, by 11 persons attesting to the torture to which such detainees are systematically subjected during a period of arbitrary detention in military or police premises which ranges from a few days to several months and during which they have no contact either with their family or with a lawyer or a doctor. This is the case of Mr. Carlos Armando Argueta Rivera, who was arrested by the National Investigation Department (DIN) in the town of Coloca (Lempira department) on 7 April 1990 and tortured during a one-month period of disappearance, and Mr. Juan José Baca Nuñez, a member of the beverage and allied industries' trade union who was arrested on 22 December 1990 and also tortured for two days.

3. The Committee for the Defence of Human Rights in Honduras has brought proceedings for 38 writs of habeas corpus since the beginning of the year. In three cases only, the prisoners have reappeared after a period of time which confirms the offence of unlawful detention. Habeas corpus is not immediate and is also not given effect "at any time, on any day", as required by the Constitution. To date, no judge has yet punished a member of the military for having violated this guarantee, whereas article 182 of the Constitution of Honduras characterizes detention without the remedy of habeas corpus as the "offence of unlawful detention".

4. The inviolability of the right to life is also guaranteed by article 65 of the Constitution of Honduras. However, it was gravely violated as a result of the execution on Monday, 22 July 1991, of Mr. Marco Tulio López Hernández, the son of the Chairman of the Committee of Families of Disappeared Persons in Honduras (COFADEH). It should be recalled that Mr. Enrique López Hernández, the brother of Mr. Marco Tulio López Hernández, disappeared in February 1984 after having been abducted by DIN agents. The applications for habeas corpus which were filed in order to determine his whereabouts have never had any success. IFHR also wishes to express fears about the fate of Professor Juan Almendares Bonilla, who has been threatened several times since he denounced the murder of Mr. Marco Tulio López Hernández. This arbitrary execution is in addition to those of Mr. Eduardo Ramon Salgado on 2 March 1990, Mr. Walter David Cruz Torres on 26 May 1990 and Mr. José Vicoriano Castillo Enceda, who died in detention as a result of the torture to which he was subjected after his arrest on 3 September 1990.

5. IFHR appeals to the Honduran authorities to punish those responsible for violations of the right to habeas corpus and to ratify the International Covenant on Civil and Political Rights and its Optional Protocol. IFHR also considers that the Working Group on Detention should continue and go more deeply into its consideration of the question of the inalienable nature of habeas corpus.

ADMINISTRATION OF JUSTICE IN EL SALVADOR

6. In El Salvador, the human rights situation does not seem to have improved since the signature of the San José agreements or even since the last legislative elections. Rather, the possibility of the monitoring of respect for these agreements by a United Nations ad hoc commission seems to be causing panic among the armed forces that is leading to further military repression without judicial supervision. On the pretext of the need to combat the

querrilla forces, the army is terrorizing the population of the regions it controls. The Atlasatl élite battalion has particularly distinguished itself in repressive operations affecting the department of Chalatenango in the northern part of the country, where there have been reports of several persons wounded and many unlawful arrests followed by torture. Such practices are also common in the departments of Cuscatlan and Cabanas in the central part of the country and in the departments of San Vicente, La Libertad and Insulután in the south. In early July 1991, 13 militant members of the Frente Farabundo Martí who had been taken prisoner in an ambush were executed in violation of article 13 of the Geneva Convention relative to the Treatment of Prisoners of War.

7. The duration of "administrative detention", which was set at 12 hours by the San José agreement, is never respected. This period of detention is systematically accompanied by torture, sometimes to death.

8. According to the Human Rights Commission of El Salvador and Lutheran Legal Aid, lawyers who have the right to communicate with prisoners during this period have never been able to exercise this right. They are imprisoned or harassed themselves if they insist on gaining access to prisoners.

9. The Minister of Defence threatened the lawyers representing the families of six Jesuits and the two women murdered in November 1989, Mr. Henry Campos and Mr. Sidney Blanco, with a libel suit if they maintained their unfounded accusations against the Armed Forces High Command. The lawyers had submitted a document placing these executions in the context of the 70,000 non-combatant civilians killed in the past six years.

10. The activities of paramilitary groups have also increased sharply. They carry out large numbers of arrests which usually end in the prisoners' multulation, execution and disappearance. Moreover, two members of the Marginal Communities' Council were executed in San Salvador, on 6 July 1991 while, on 10 July 1991, there was an attack on a leader of the observer mission appointed by the United Nations on 20 May 1991 to monitor the progress of the peace talks between the Government and the guerrillas. The growing involvement of paramilitary groups is a sign that the repressive functions performed by the army to guarantee the total impunity of the Government and the members of the armed forces are being transferred to them. In the light of these facts, IFHR urges the Sub-Commission to continue considering the situation of human rights in El Salvador at its forty-fourth session.

11. IFHR also urges the Sub-Commission to take up the question of impunity, for example, by appointing a rapporteur to carry out a study of this recurrent practice: since 1985, when Mr. Louis Joinet submitted his study on amnesty, which dealt with the question indirectly, impunity and its consequences have been outside the scope of the Sub-Commission's activities.

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